

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 494

Case No. 85-18C

July 14, 1986

(Judiciary Square - PUD)

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on April 17, 1986. At that hearing session, the Zoning Commission considered an application from the Federal Home Loan Bank Board for consolidated review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to Sections 7501 and 9101 of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

### FINDINGS OF FACT

1. The application, which was filed on November 15, 1985, requests consolidated review and approval of a Planned Unit Development (PUD) and related change of zoning from unzoned property to C-3-C for all of Square 532, namely lots 2, 17-19, 801-820, 823-834 and a private alley. The Peter N. G. Schwartz Company is the contract purchaser of the subject property.
2. The applicant proposes to construct an office building with some first floor retail uses.
3. The PUD site is unzoned, comprises the entire square bounded by Third, Fourth, D, and E Streets, N.W., and includes approximately 76,4502 square feet of land area.
4. The C-3-C District permits matter-of-right major business and employment centers of medium/high density development, including office, retail, housing, and mixed uses to a maximum height of ninety feet, a maximum floor area ratio (FAR) of 6.5 for residential and other permitted uses, and a maximum lot occupancy of one hundred percent.
5. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may

exceed or be lesser than the the matter-of-right standards identified above.

6. To the immediate north of the PUD site is SP-2 zoning, with C-3-C beyond, to the northeast is HR/C-3-C zoning; to the east, southeast, south, and southwest is C-3-C zoning; and to the west and northwest is SP-2 zoning.
7. Uses in the area include the First Trinity Lutheran Church to the north with a 330,000 gross square foot office building beyond, the U.S. Tax Court to the east, the District of Columbia Municipal Center to the south, and a. part of Judiciary Square, including the old city hall, to the west.
8. The District of Columbia Generalized Land Use Element of the Comprehensive Plan includes the PUD site in an area of three categories; federal, Local public facilities, and high density commercial.
2. In 1978, the Zoning Commission considered a proposal to rezone a large portion of the SP-2 District in the Judiciary Square area. By Z.C. Order No. 216 dated June 8 , 1978, the Zoning Commission determined that  
  
"the proposal, as presently before the Commission, would not benefit the Judiciary Square area or the city as a whole, and would not be consistent with the preservation of the general welfare. It is however reasonable that development occur in this area, and general office development with controlled retail facilities would be appropriate. It is therefore appropriate for the Commission to entertain individual requests for rezoning of this area under the planned unit development process on a case-by-case basis, where the individual development proposal could be reviewed, and where the Commission could impose requirements for the protection of the area.'"
10. Subsequently, by Z.C. Order No. 252 dated April 12, 1979 for Case No. 78-17F/77-26P, and by Z.C. Order No. 311 dated April 10, 1980 for Case No. 79-18F/78-15P, the Zoning Commission approved two PUD's with map amendments from SP-2 to C-3-C (formerly C-3-B) for office development in the Judiciary Square area.
11. The subject site is located within the Judiciary Square Master Plan area and is subject to the design review of the Commission of Fine Arts. Conceptual design review for the subject building was approved by the Commission of Fine Arts on February 21, 1986,
12. The applicant proposes to construct a single office building to contain a gross floor area of approximately 556,490 square feet, a lot occupancy of seventy-eight

percent, a floor area ratio (FAR) of 7.3, a height of 120 feet/eleven stories, and underground parking to accommodate approximately 482 to 489 spaces in a stacked-parking configuration.

13. The applicant explained the unique nature of the subject property. The site is extremely difficult to develop due the Metro station directly below grade. The plans call for an extra long 120 foot truss span that will increase the cost of construction significantly. Furthermore, large long-span trusses and girders are needed throughout the building. Because of the Metro easements, excavation for the building cannot be done with conventional procedures. Excavation must be done with careful consideration for the station, tunnel and the utilities,
14. The applicant indicated that the lower levels of the building require two separate garages and two separate access ramps. The resulting configuration of the garages create inefficient parking layouts, thus making necessary the extensive use of vault construction. The extent of special engineering required for construction will significantly increase the time needed to complete the project and will add to its cost,
15. The applicant testified that as a result of easements associated with the property, the planned unit development is a comprehensive solution to the problems and opportunities that the site offers. The floor area requested in excess of the guidelines is necessary to provide an economically viable project while allowing the applicant to develop this difficult site and to provide a full spectrum of amenities that will benefit the city. The applicant and its witnesses testified that the public benefits and other meritorious aspects of the proposal.
16. The applicant indicated that superior building design was one of the amenities of the project. As one of the largest private office building in the Judiciary Square area, the building will occupy a prominent role. The applicant has expended approximately \$2.4 million in building design expenses to harmonize the structure with other buildings in the area. Furthermore, the applicant's entry design incorporates a canopy that covers the Metro escalator. The applicant's proposed plaza setback area will add approximately \$385,000 to construction costs in excess of that required by the Judiciary Square Master Plan and those site improvements which a prudent builder would provide.
17. Another amenity identified by the applicant was that this project will increase the tax revenues to the District of Columbia because due to the current Federal.

ownership, the city currently does not collect any taxes on the property,

18. The applicant proposed to construct a one-half level of parking at a cost of approximately \$1,400,000 to provide flexibility in servicing the parking needs of the project. The flexibility provided by the excess parking will ensure availability of parking in the area.
19. The applicant agreed to use certified minority business participation during the construction phase of the project with a goal of 35 percent Minority Business Opportunity Commission (MBOC) participation. The construction company retained by the applicant will coordinate a job orientation and job training program with Advisory Neighborhood Commission (ANC) - 2C for the benefit of ANC 2C residents.
20. The applicant plans to spend a maximum of \$100,000 on landscaping expenses in an effort to beautify the west side of 4th Street, property owned by the Federal government. The applicant plans to commission an artist to create a mural for the lobby area of the building. This will entail an expenditure of a maximum of \$100,000.00.
21. The applicant's architect described in detail the proposed development plan. The architect and real estate economic consultant testified that because the project is located above several Metro easements, several additional expenses are entailed. The architect described that the building will be set back from the 4th Street right-of-way a distance of 38 feet with the main facade of the building facing 4th Street at 90 feet in height. This setback, although not required by the Zoning Regulations, is part of the guidelines of the Judiciary Square Master Plan. Similarly, above 90 feet, the building is set back an additional 32 feet, whereupon it rises to 120 feet.
22. Although the building fits within the zoning envelope of other PUDs, it will have a floor area ratio of 7.3. The architect described that the building has a highly articulated and detailed facade that is approximately \$2,400,000 more expensive than other PUD projects in the area. In combination with the large landscaped plaza and pedestrian arcade on 4th Street, the PUD will provide visual interest and scale. The entrance directs the pedestrian to a generous lobby that serves the north and south elevator cores of the building,
23. The applicant's architect also testified that if the overhangs at the first floor level on the D, E, and 3rd

Street frontages had not been included in the FAR computations, the FAR for the project would be approximately 7.22. Such a method for FAR computations has been utilized in previous areas before the Commission.

24. The applicant's land planner described the site and the land use goals and policies governing development of the subject property. The land planner pointed out that the proposed PUD is consistent with the goals of the PUD process as stated in the Zoning Regulations. These goals include: compatibility with city-wide and neighborhood goals, plans and programs, sensitivity to environmental protection, energy conservation and historic preservation objectives, and compliance with the goals and policies of the Comprehensive Plan. The proposed PUD, as described by the land planner, is consistent with the following elements of the Comprehensive Plan: land use, economic development,, environmental protection, transportation, urban design and downtown.
25. The land planner also testified that the PUD is consistent with the PUD objectives of sound project planning, efficient and economic land utilization, attractive urban design and provision of public space and amenities. The land planner concluded by noting that this project represents a unique opportunity to return vacant, unproductive, federally-owned land to the private sector and to complete the framing of a major landmark area which has taken on increasing importance with the advent of the building museum, as well as the court and municipal functions. He noted that this project accomplishes these goals in a context of difficulty due to the constraints of Metro easements.
26. The applicant's traffic and transportation consultant indicated that the level of parking proposed for the building would cause no adverse traffic impact.
27. The applicant indicated that there is a need for flexibility with respect to the provision of parking in order to accommodate the needs of major prospective tenants. The government as a prospective user may very well require use of the entire parking garage for its needs and security and other purposes.
28. The applicant further requested flexibility, depending on market conditions, to devote the first floor of the building to retail or service uses, and to have flexibility to vary the location of interior partitions in the building.

28. The applicant's economic consultant testified about the financial constraints of developing a site with the Metro easements. The consultant concluded that in the absence of subway tunnels beneath the site, the land value would be approximately \$12,880,00 or \$24.01 per FAR. The economist noted that although this value exceeds the purchase price of \$12,240,000, it is less than the cost of comparable land in the general neighborhood, as evidenced by comparable sales. Restrictions on the development of the site due to the zoning requirements and the requirements of the Commission of Fine Arts limit development to an FAR of 7.3.
30. The District of Columbia Office of Planning (OP), by memorandum dated April 7, 1986, and by testimony presented at the public hearing, recommended that the application be approved. The OP concurs with the applicant's statement of consistency with the Comprehensive Plan, as set forth in the Prehearing Statement, and believes the application offers the following public benefits:
- a. Compliance with the Comprehensive Plan, especially the Downtown Element;
  - b. Compliance with the development guidelines of the Judiciary Square Master Plan;
  - c. Elimination of a surface parking lot and redevelopment of an underutilized site in the Downtown;
  - d. Generation of additional real estate and sales taxes over those currently generated by existing development on the site;
  - e. Provision of additional parking in excess of the Requirements of Article 72 and in excess of the demand generated by the building's occupants;
  - f. Minority Business participation during construction through an agreement with the Minority Business Opportunity Commission; and
  - g. Provision of a canopy over the entrance to the Judiciary Square Metrorail Station thereby enhancing Metro facilities and possibly Metro ridership.
31. The District of Columbia Department of Public Works (DPW) by memorandum dated April 9, 1986, and by testimony presented at the public hearing, did not oppose the application, but subsequent to DPW review and analysis, recommended the following:

- a. That an off-street drop-off area be provided on Fourth, D, or E Streets;
  - b. That a minimum of 189 parking spaces be allocated for replacement short-term use, and that the remaining 300 spaces be used for employees of the building;
  - c. That on-site storm water management measures be considered by the applicant;
  - d. That twenty-six bicycle parking spaces be provided with half located outside the building and half located inside the building on the ground floor or first cellar level; and
  - e. That a ridesharing program be implemented.
32. The District of Columbia Metropolitan Police Department, by memorandum dated April 3, 1986, concluded that "the project will not impact adversely upon any current or planned operations by the department or the First District."
33. The District of Columbia Department of Administrative Services (DAS), by Letter dated March 17, 1986, indicated that the DAS could support the applicant's plans to upgrade the existing park across Fourth Street from the project, if the following conditions are met:
  - a. That the existing number of parking spaces be maintained or increased;
  - b. That all plans be coordinated with and supported by the courts; and
  - c. That all expenses associated with said improvement be borne by the applicant.
34. Advisory Neighborhood Commission (ANC) - 2C, by letter dated March 21, 1986, supported the application. ANC - 2C believes that the requested C-3-C rezoning is appropriate, and consistent with the Comprehensive Plan and the Judiciary Square Master Plan. ANC - 2C further believes that the application meets the standards under Article 75 of the Zoning Regulations.
35. There were two letters in support of the application; one dated April 3, 1986, from D.F. Antonelli of the Alpine Associates Limited Partnership and the other dated April 15, 1986, from William D. Boyers of the Federal Home Loan Bank Board.

36. The First Trinity Lutheran Church (FTLC) , party in the proceedings, by letter received April 3, 1986 and by testimony presented at the public hearing, opposed the application. The FTLC noted the declining residential character of the neighborhood and encouraged the Zoning Commission to require that a certain percentage of the office building be retained for residential use.
37. The Community Family Life Services, Inc., by letter dated April 3, 1986, did not support the application because it believed that the project should allocate at least ten percent of the density over 6.5 FAR for low-income housing.
38. The Facilities Management Co., Inc., by petition dated April 16, 1986, included the signatures of 197 persons who oppose the application because of the loss of surface parking spaces to the area, The petitioners believe that a facility with at least 700 parking spaces would be required to serve the area.
39. As to the concerns of the applicant regarding use flexibility in leasing the first floor and floor plan flexibility affecting interior partitions, the Commission finds that the applicant's requests are reasonable,
40. As to the concerns of the applicant regarding its need for parking flexibility if it secures a major tenant, the Commission finds that the applicant's concern and those concerns of the DPW are valid, and believes that, in its decision, the Commission has struck an appropriate balance.
41. The Commission generally concurs with the recommendation of the Office of Planning.
42. As to the concerns of the DPW and others regarding parking, the Commission finds that the parking demands of the employees of the building should be met in order not to overburden the existing need for area parking. The Commission believes that there is also a need to continue short and/or long-term parking in the area.
43. As to the concerns of the First Trinity Lutheran Church and others regarding the issue of low-income housing, the Commission finds that housing is not consistent with the Land Use Element of the Comprehensive Plan for the Judiciary Square area, The Commission believes that the requested FAR above the density guidelines, pursuant to Section 7501 of the Zoning Regulations, is appropriate and reasonable, because of the development hardships associated with Metrorail easement under the PUD site.



44. The proposed action of the Zoning Commission to approve the application with conditions-was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of the District of Columbia Self Government and Governmental Reorganization Act, The NCPC, by report dated June 26, 1986, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital .

#### CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Article 75 to encourage the development of well-planned residential, institutional, commercial and mixed use developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. The approval of this application is not inconsistent with the Comprehensive Plan of the District of Columbia.
5. The approval of this application is not inconsistent with the Judiciary Square Master Plan.
6. The approval of this application is consistent with the purposes of the Zoning Act.
7. The proposed application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
8. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District of Columbia.

9. The Zoning Commission has accorded to the Advisory Neighborhood Commission - 2C the "great weight" to which it is entitled.

#### DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the District of Columbia Zoning Commission hereby orders APPROVAL of this application for consolidated review of a Planned Unit Development and change of zoning from unzoned property to C-3-C for all of Square 532 located at and bounded by Third, Fourth, D, and E Streets, N.W. The approval of this PUD and change of zoning are subject to the following guidelines, conditions, and standards:

1. The planned unit development shall be developed in accordance with the plans prepared by Vlastimil Koubek, Architects, marked as Exhibit No. 24 of the record as modified by the guidelines, conditions, and standards of the order.
2. The project shall be developed as an office building, subject to Condition No. 3 below.
3. The applicant has the flexibility, depending on market conditions at the time of development, to devote the first floor of the building to retail or service uses.
4. The floor area ratio (FAR) of the project shall not exceed 7.3, exclusive of the penthouse.
5. The height of the project shall not exceed 120 feet, as shown on the plan marked as Exhibit No. 24 of the record. The penthouse structure shall be set back from the exterior walls of the building at 1:1 ratio.
6. The lot occupancy of the project shall not exceed 78 percent.
7. Pursuant to the requirements of the Zoning Regulations for the C-3-C Districts, the applicant shall reserve not less than 241 of the proposed approximate 482 to 489 parking spaces for users of the building. Those reserved parking spaces shall be clearly marked to differentiate them from the remaining 241 to 248 excess spaces. The remaining approximate 241 to 248 excess parking spaces shall be used for short or long-term parking for the general public.
8. If there is an office tenant leasing 200,000 square feet of gross floor area or more and has a security requirement, there shall be no requirement to provide

short or long-term parking for the approximate 241 to 248 excess parking spaces.

9. Access to the parking garage and loading facilities will be accessible from 3rd Street, N.W., as shown on the plans marked as Exhibit No. 24 of the record,
10. The project shall be developed in one phase,
11. The development shall not include a lay-by.
12. Prior to the issuance of a building permit, the applicant shall establish an interest-bearing escrow account for not less than \$100,000.00 to be used for landscaping improvements to the city-owned park area on the west side of Fourth Street from the PUD site.
13. Antennas may be permitted on the roof of the building, but shall be located within the exterior walls of the penthouse. Such antennas shall not exceed the height of the exterior walls of the penthouse.
14. The applicant shall commission an artist to create a mural for the lobby area of the building with related expenditures of a maximum of \$100,000.00.
15. The applicant shall participate in a rideshare program in conjunction with other such programs and coordinate with the D.C. Kideshare Coordinator in order to minimize the on-site parking demand and to encourage ridesharing among the employees of the project.
16. Prior to the issuance of a building permit,. the applicant shall enter into a First-Source Agreement jobs program with ANC - 2C which would provide for priority employment status for ANC - 2C residents, If such an agreement is not ratified with ANC - 2C, then prior to the issuance of a building permit, the applicant shall implement the Memorandum of Understanding with the Minority Business Opportunities Commission (MBOC) filed in the record as Appendix 0 of Exhibit No. 25, which provides that the applicant will make a bona fide effort to have 35 percent participation in the construction of the project by qualified minority business enterprises. The applicant shall file into the record a copy of the ratified First Source Agreement with ANC - 2C or a copy of the ratified Memorandum of Understanding with the MBOC.

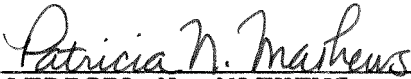
17. No signs for retail, service, or office uses shall be permitted to front on Fourth Street.
18. The building materials will range from light to dark shades of earth-tone color precast concrete in accordance with Exhibit No, 50 and submitted as a post-hearing submission. The final selection of exterior materials shall be within the color range as proposed based on the availability at the time of construction. All color selections are subject to approval by the Commission on Fine Arts.
19. If there is no office tenant leasing 200,000 square feet of gross floor area or more, the applicant shall make available to the First Trinity Lutheran Church the opportunity to lease, at no cost, storage space for five of its vans in the building's parking lot at no cost to the church. The church may have access to the vans only during the normal hours of operation of the garage subject to the Rules and Regulations of the building. Furthermore there shall be no loading or unloading of van passengers on the subject site.
20. The applicant shall have the right to construct to Metrorail connection, if such a connection is ultimately deemed necessary or desirable by the applicant.
21. The applicant may vary the location of interior partitions of the building to comply with all applicable codes or as required to obtain a final building permit.
22. The change of zoning from unzoned property to C-3-C shall be effective upon recordation of a covenant as required by Sub-section 7501.8 of the Zoning Regulations.
23. No building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the Land Records of the District of Columbia, between the owner and the District of Columbia and satisfactory to the Office of the Corporation Council and the Zoning Regulations Division, which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this order, or amendments thereof, of the Zoning Commission.
24. When the covenant is recorded in the Land Records of the District of Columbia, the applicant shall file a certified copy of that covenant with the records of the Zoning Commission,


25. The planned unit development approved by the Zoning Commission shall be valid for a period of 2 years from the effective date of this order. Within such time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within 5 years of the effective date of this order.

**Vote** of the Zoning Commission taken at the public meeting on May 12, 1986: 3-0 (John G. Parsons, Lindsley Williams, and Patricia N. Mathews, to approve with conditions - George M. White and Maybelle T. Bennett, not present, not voting).

This order was adopted by the Zoning Commission at its meeting on July 14, 1986, by a vote of 4-0 (John G. Parsons, Maybelle T. Bennett, and Patricia N. Mathews, to adopt as amended and Lindsley Williams, to adopt by absentee vote - George M. White, not present, not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective upon publication in the D.C. Register, specifically on 01 AUG 1986.

  
PATRICIA N. MATHEWS  
Chairperson  
Zoning Commission

  
EDWARD L. CURRY  
Acting Executive Director  
Zoning Secretariat

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